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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 30 and 35

[Docket No. FR-5785-F-01]

RIN 2501-AD70

Amendments to Reflect Change of Office Name from Office of Healthy Homes and Lead Hazard Control to Office of Lead Hazard Control and Healthy Homes

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: HUD's civil money penalty regulations currently provide that the Director of HUD's Office of Healthy Homes and Lead Hazard Control, or the Director's designee, may initiate a civil money penalty action against any person who knowingly violates the Residential Lead-Based Paint Hazard Reduction Act of 1992. HUD's Lead-Based Paint Poisoning Prevention regulation identifies the Office of Healthy Homes and Lead Hazard Control as the approval authority, after consultation with the Environmental Protection Agency, for lead-safe work practices courses that may qualify supervisors and workers to perform interim controls of lead-based paint hazards. Because HUD has changed the name of the Office of Healthy Homes and Lead Hazard Control to the Office of Lead Hazard Control and Healthy Homes, this final rule conforms HUD regulations to reference this new name. This final rule also provides a savings provision that preserves under the Office of Lead Hazard Control and Healthy Homes all actions taken under the Office of Healthy Homes and Lead Hazard Control.

DATES: Effective Date: **[Insert Date 30 days after date of publication in the FEDERAL REGISTER].**

FOR FURTHER INFORMATION CONTACT: John B. Shumway, Deputy Assistant General Counsel, Office of Finance and Administrative Law, Room 9262, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–2000; telephone number 202-402–5190 (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background Information

Consistent with the Consolidated Appropriations Act, 2014 (Pub. L. 113-76, approved January 17, 2014), HUD has changed the name of the Office of Healthy Homes and Lead Hazard Control (OHHLHC) to the Office of Lead Hazard Control and Healthy Homes (OLHCHH). OLHCHH will perform all of the functions of the former OHHLHC. As a result of this change, this final rule makes conforming changes to 24 CFR parts 30 and 35. Specifically, HUD’s civil money penalty regulations at § 30.65(a) identifies the Director of OHHLHC as the official with the authority to initiate a civil money penalty action against any person who has failed to comply with the lead-based paint disclosure requirements set out in 42 U.S.C. 4852d(b)(1). Since OHHLHC no longer exists, this provision is being updated in this final rule to name the Director of OLHCHH to carry out this function. In addition, § 35.1330(a)(4)(iii) of HUD’s Lead Safe Housing Rule identifies OHHLHC as the approval authority, after consultation with the Environmental Protection Agency, for lead-safe work practices courses that may qualify supervisors and workers to perform interim controls of lead-based paint hazards. This final rule updates this provision to name the OLHCHH to carry out this function. This section is also being updated to provide the current telephone number for

requesting the list of approved courses and the current name of the Federal service that persons with hearing or speech impediments may use for making the request call, toll free.

II. Savings Provision

This final rule shall constitute notice that all references to OHHLHC in any document, statement, or other communication made before the effective date of this rule shall be deemed to be references to OLHCHH.

III. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10, however, provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is “impracticable, unnecessary, or contrary to the public interest” (24 CFR 10.1). For the following reasons, HUD finds that good cause exists to publish this rule for effect without first soliciting public comment.

This final rule makes nomenclature changes to §§ 30.65(a) and 35.1330(a)(4)(iii). As a result of internal HUD organizational changes, the office referred to in HUD’s currently codified regulations no longer exists as it did when these sections were issued. This final rule merely replaces references to “Director of the Office of Healthy Homes and Lead Hazard Control” and “Office of Healthy Homes and Lead Hazard Control” with references to “Director of the Office of Lead Hazard Control and Healthy Homes” and “Office of Lead Hazard Control and Healthy Homes,” respectively. Neither of these changes makes substantive change to §§ 30.65(a) or 35.1330(a)(4)(iii). Therefore, HUD determined that it is unnecessary to publish this rule for public comment prior to publishing the rule for effect.

IV. Findings and Certifications

Regulatory Review – Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if the regulation is necessary, to select the regulatory approach that maximizes net benefits. As discussed above in this preamble, this final rule updates HUD's regulations to reflect HUD's decision to rename the office listed in §§ 30.65(a) and 35.1330(a)(4)(iii). As a result, this rule was determined to not be a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and, therefore, was not reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 605(b)) generally requires an agency to conduct regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Since notice and comment rulemaking is not necessary for this final rule, the provisions of the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) do not apply.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This final rule will not have federalism implications and would not impose substantial

direct compliance costs on state and local governments or preempt state law within the meaning of the Executive order.

Environmental Review

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and the private sector. This final rule does not impose any Federal mandates on any state, local, or tribal government, or the private sector within the meaning of UMRA.

List of Subjects

24 CFR Part 30

Administrative practice and procedure, Loan programs—housing and community development, Mortgages, Penalties.

24 CFR Part 35

Grant programs-housing and community development, Lead poisoning, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR parts 30 and 35 as follows:

PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT

1. The authority citation for part 30 continues to read as follows:

Authority: 12 U.S.C. 1701q-1, 1703, 1723i, 1735f-14, 1735f-15; 15 U.S.C. 1717a; 28 U.S.C. 2461 note; 42 U.S.C. 3535(d).

2. Revise § 30.65(a) to read as follows:

§ 30.65 Failure to disclose lead-based paint hazards.

(a) *General.* The Director of the Office of Lead Hazard Control and Healthy Homes, or his or her designee, may initiate a civil money penalty action against any person who knowingly violates 42 U.S.C. 4852d.

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PART 35—LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES

3. The authority citation for part 35 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 4821, and 4851.

4. Revise § 35.1330(a)(4)(iii) to read as follows:

§ 35.1330 Interim controls.

* * * * *

(a) * * *

(4) * * *

(iii) Another course approved by HUD for this purpose after consultation with the EPA.

A current list of approved courses is available on the Internet at <http://www.hud.gov/offices/lead>, or by mail or fax from the HUD Office of Lead Hazard Control and Healthy Homes at (202) 402-7698 (this is not a toll-free number). Persons with hearing or speech impediments may access the above telephone number via phone or TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

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Dated: June 13, 2014.

Shaun Donovan,
Secretary.

[FR-5785-F-01]

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